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7590 John L. Rogitz Rogitz & Associates Suite 3120 750 B Street San Diego, CA 92101			EXAMINER SETH, MANAV	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JOSEPH A. CERVANTES, WALTON FONG,
DONALD RAY GILLIS, and REMMELT PIT

Appeal 2009-004148
Application 10/758,662
Technology Center 2600

Decided: November 25, 2009

Before, JOSEPH F. RUGGIERO, MAHSHID D. SAADAT, and
ROBERT E. NAPPI, *Administrative Patent Judges*.

NAPPI, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134(a) of the final rejection of claims 1, 3-5, and 7.¹ We have jurisdiction under 35 U.S.C. § 6(b).

We affirm the Examiner's rejections of these claims.

INVENTION

The invention is directed to self-contained system that includes a scanner and the ability to scan text, run the text through an optical character recognition (OCR) system, and store the text in a hard disk drive (HDD). *See Spec: 1-3.* Claim 1 is representative of the invention and reproduced below:

1. A self-contained character recognition system, comprising:
 - a housing configured for receiving at least one paper document;
 - a scanner in the housing outputting a digitized representation of information on the paper document;
 - a processor in the housing and executing a character recognition module for converting the digitized representation into electronic text; and
 - at least one hard disk drive (HDD) in the housing for storing the electronic text, wherein the processor automatically executes the character recognition module upon scanning a document and stores the electronic text in the HDD, without the need for a user command, the system not having a user input device.

¹ Claims 6 and 8-10 were cancelled in an Amendment After Non-Final, filed November 20, 2007. Claims 2 and 11-17 were cancelled in an Amendment After Non-Final, filed February 25, 2008.

REFERENCES

Sasaki	US 5,674,012	Oct. 7, 1997
Han	US 2002/0051242 A1	May 2, 2002
Mangerson	US 6,504,138 B1	Jan. 7, 2003

REJECTIONS AT ISSUE

Claims 1, 4, 5, and 7 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Mangerson in view of Han. Ans. 3-4.

Claim 3 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Mangerson in view of Han and Sasaki. Ans. 5.

ISSUES

Rejection of claims 1, 4, 5, and 7 under 35 U.S.C. § 103(a) as being unpatentable over Mangerson in view of Han

Appellants argue on pages 4-5 of the Appeal Brief and pages 1-2 of the Reply Brief that the Examiner's rejection of claims 1, 4, 5, and 7 is in error. We select independent claim 1 as representative of the group comprising claims 4, 5, and 7 since Appellants did not separately argue these claims with particularity. *See* 37 C.F.R. § 41.37(c)(1)(vii). Appellants argue that Mangerson requires an input device. App. Br. 4.

Thus, Appellants contentions present us the issue: Have Appellants shown that the Examiner erred in finding that Mangerson's system does not require an input device?

*Rejection of claim 3 under 35 U.S.C. § 103(a) as being unpatentable over
Mangerson in view of Han and Sasaki*

Appellants argue on page 5 of the Appeal Brief that the Examiner's rejection of claim 3 is in error. Appellants reason that claim 3 is allowable based upon its dependency on claim 1. App. Br. 5. Thus, Appellants' arguments with respect to the rejection of claim 3 present us with the same issue as claim 1.

FINDINGS OF FACT

Mangerson

1. Mangerson discloses a hand held, battery powered, portable scanning device. Abstract.
2. In one embodiment, the scanner may provide connections for a keyboard/mouse controller 144. Col. 4, ll. 21-26 and Fig. 1.
3. When the scanner 200 is activated and a medium 214 is inserted into the scanner, the scanning process begins. Sensing elements 214 detect the location of the medium 214 in the scanner 200. Col. 8, ll. 11-14 and Fig. 5.
4. "In the event that it is determined that medium 214 has been removed from scanner 518, the scanning process has been completed . . . [and] [a] prompt for action is provided." Col. 8, ll. 22-27 and Fig. 5.
5. When the prompt for action is provided, "a user or software is queried for the next action to occur." Col. 8, ll. 25-27 and Fig. 5.
6. The next actions to occur include: saving the scanned information in a storage medium and performing optical character recognition

on the scanned information and saving the scanned information for later retrieval. Col. 8, ll. 27-32 and Fig. 5.

PRINCIPLES OF LAW

Office personnel must rely on Appellant's disclosure to properly determine the meaning of the terms used in the claims. *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 980 (Fed. Cir. 1995) (en banc). "[I]nterpreting what is *meant* by a word *in* a claim 'is not to be confused with adding an extraneous limitation appearing in the specification, which is improper'." *In re Cruciferous Sprout Litigation*, 301 F.3d 1343, 1348 (Fed. Cir. 2002) (internal quotation marks and citations omitted; emphasis in original).

ANALYSIS

Rejection of claims 1, 4, 5, and 7 under 35 U.S.C. § 103(a) as being unpatentable over Mangerson in view of Han

Appellants' arguments have not persuaded us of error in the Examiner's rejection of independent claim 1. Independent claim 1 recites "at least one hard disk drive (HDD) in the housing for storing the electronic text, wherein the processor automatically executes the character recognition module upon scanning a document and stores the electronic text in the HDD, without the need for a user command, the system not having a user input device." Appellants do not specifically define the terms "user command" or "user input device." However, Appellants' Specification identifies that a "user input device" may be a keypad, mouse, joystick, or "the like." Spec. 4:8-9. Additionally, Appellants' Specification indicates that a keypad, mouse, joystick, or the like are utilized by a user to input commands. Spec.

4,;8-10. Thus, the scope of the claim requires that a keypad, mouse, joystick, or the like is operated to create an input to the system.

Appellants argue that Mangerson does not teach that an input device is optional. App. Br. 4. In fact, Appellants argue that Mangerson requires an input device since Figure 1 of Mangerson shows a keyboard and mouse controller represented by reference numeral 144. App. Br. 4. We disagree.

Mangerson discloses, in one embodiment, that connections are provided for a keyboard/mouse controller 144. FF 2. The term “one embodiment” and “provided” do not indicate that a keyboard/mouse controller is required. These terms indicate that it is possible for a keyboard/mouse controller to be used with the system, but not required. Thus, Appellants’ arguments are not found to be persuasive.

Additionally, Appellants argue that a “prompt” is caused by the deactivation of the scanner in response to the removal of the *storage* medium (emphasis added). App. Br. 4. Thus, Appellants argue that the removal of the storage medium is the same as a user command. App. Br. 4-5. First, it appears that Appellants are misreading the teachings of Mangerson. Mangerson states “[i]n the event that it is determined that medium 214 has been removed from scanner 518, the scanning process has been completed...[and] [a] prompt for action is provided.” FF 4. Thus, the medium 214 that is removed is not the storage medium but the actual scanned document. As indicated above, a scanned document is not a user input device since it is not a mouse, keypad, joystick, or anything similar to those devices. Second, even if Appellants’ interpretation of Mangerson were correct, the removal of the storage medium is not a user command. As noted above, a user command must come from an input device and a storage

medium is not a user device. Third, Mangerson discloses that “a user or software is queried for the next action to occur.” (Emphasis added). FF 5. Again, this sentence indicates that a user input may be used to determine the next action, however, it also indicates that software can determine how to proceed. Therefore, Appellants have not shown that the reference requires a user input device. As such, we sustain the Examiner’s rejection of claim 1.

Rejection of claim 3 under 35 U.S.C. § 103(a) as being unpatentable over Mangerson in view of Han and Sasaki

Appellants’ arguments have not persuaded us of error in the Examiner’s rejection of claim 3. Claim 3 ultimately depends upon claim 1 and as such, includes the same limitations discussed *supra* with respect to claim 1. Appellants’ arguments present the same issues discussed with respect to claim 1. App. Br. 5. Therefore, we sustain the Examiner’s rejection of claim 3 for the reasons discussed *supra* with respect to claim 1.

CONCLUSIONS OF LAW

Appellants have not shown that the Examiner erred in finding that Mangerson’s system requires an input device.

SUMMARY

The Examiner’s decision to reject claims 1, 3-5, and 7 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136 (a)(1)(iv).

AFFIRMED

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gvw

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